IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

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**WRIT PETITION NO : 24153 of 2004**

Between:

M. Jayaramulu S/o Late M. Venkataramaiah, Fair Price Shop Dealer,
R/o D. NO. 1-67, Chilamkur Village, Pamur Mandal, Prakasam District

**..... PETITIONER**

AND

1 The Joint Collector, Prakasam District at Ongole
2 The Revenue Divisional Officer, Kandukur, Prakasam District
3 The Mandal Revenue Officer, Pamur Mandal, Prakasam District

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the order of the 2nd respondent issued in his proceedings in Rc. F/2697/2004 dated 4-11-2004 suspending the permanent dealership authorization of the petitioner of Fair Price Shop of Chilamkur Village, Pamur Mandal, Prakasam District and consequential proceedings of the 1st respondent in Rcc. S2/5034/2004 dated 5-12-2004 rejecting the grant of stay petition filed along with the appeal on the opertionof the Order of the 2nd respondent dated 4-11-2004 suspending the authorisation of fair Price shop dealership of the petitioner as arbitrary, malafide, illegal, improper unjust, unconstitutional and in violation of principles of natural justice and consequently set a side the same thereby enabling the petitioner to continue as permanent fair shop dealer of Chilamkur Village, Pamur Mandal, Prakasam District.

**Counsel for the Petitioner:MR.RAJANIKANTH JWALA**

**Counsel for the Respondents: GP FOR CIVIL SUPPLIES**

**The Court at the stage of admission made the following ORDER:**

The petitioner is a fair price shop dealer of Chilamkuru village of Prakasham District. Through proceedings dated 04-11-2004, the second respondent suspended the authorisation of the petitioner on the ground that 56 quintals of rice and 677 liters of kerosene were seized from him and the proceedings under Section 6-A of the Essential Commodities Act (for short 'the Act') were initiated. The petitioner preferred an appeal before the first respondent, together with an application for grant of stay. Alleging that no orders have been passed by the first respondent in the stay petition, he filed W.P.No.22073 of 2004. The writ petition was disposed of on 01-12-2004 directing the first respondent to pass appropriate orders in the application for stay, within a period of 10 days from the date of receipt of the order. Thereafter, the first respondent passed an order dated 05-12-2004 refusing to grant stay. The same is challenged in this writ petition.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The second respondent suspended the authorisation of the petitioner on the ground that certain irregularities are noticed in respect of his fair price shop and that proceedings were initiated under Section 6-A of the Act.

Learned counsel for the petitioner places reliance upon the Judgment of this Court in ***GUNDALA RAMA MURTHY v THE DISTRICT COLLECTOR, VIZIANAGARAM*** and contends that mere pendency of proceedings under Section 6-A of the Act cannot constitute the basis for suspension of an authorisation.

It is true that in the Judgment referred to above, Hon'ble Sri Justice P. Venkatarama Reddy, as he then was, held that the authorisation of a dealer cannot be suspended simply on the ground that proceedings under Section 6-A of the Act are initiated. It was held that the appointing authority has to apply his mind independently. In the instant case, the second respondent discussed the matter at length and made a

reference to the proceedings under Section 6-A of the Act. Hence, the ratio laid in the case referred to above does not apply to the facts of this case.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing the first respondent to pass appropriate orders, after giving an opportunity to the petitioner in the proceedings initiated under Section 6-A of the Act as well as the appeal preferred by him, within a period of four weeks from the date of receipt of a copy of this order. No order as to costs.

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29-12-2004

kdl

To

1 The Joint Collector, Prakasam District at Ongole
2 The Revenue Divisional Officer, Kandukur, Prakasam District
3 The Mandal Revenue Officer, Pamur Mandal, Prakasam District

4 Two CCs to the Government Pleader for Civil Supplies, A.P.High Court Buildings, Hyderabad (OUT).

5 Two CD copies.